

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ERICK FERNANDO VELA,

Petitioner,

vs.

SCOTT R. FRAKES, Director,

Respondent.

**4:18CV3046**

**ORDER**

This matter is before the Court on the Unopposed Motion to Stay Proceedings and to Hold this Matter in Abeyance ([Filing No. 6](#)) filed by Petitioner, Erick Fernando Vela. Vela requests that this Court stay and hold these proceedings in abeyance until his pending state court proceedings are resolved. Scott R. Frakes, the Respondent, does not object to Vela's motion. Respondent also requests an extension of time to file a response to the Petition ([Filing No. 1](#)). ([Filing No. 8](#)).

After review of the instant motion and Vela's Petition, the Court finds that Vela's Petition is a "mixed petition" containing unexhausted and exhausted claims. Vela has shown good cause for filing the unexhausted claims, which are potentially meritorious, and his request to hold the instant proceedings in abeyance is not an intentionally dilatory litigation tactic. Therefore, the Court finds that this matter should be held in abeyance until the pending state court proceedings are resolved, pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005). Upon consideration,

**IT IS ORDERED:**

1. Petitioner's Unopposed Motion to Stay Proceedings and to Hold this Matter in Abeyance ([Filing No. 6](#)) is granted. This case shall be stayed and held in abeyance pending the resolution of the state court proceedings.
2. Petitioner shall notify the Court within 14-days of the resolution of the state court proceedings. Upon such notification, the Court will enter an order lifting the stay.
3. Respondent shall have an extension of time to file a response to the Petition until 30-days after the stay is lifted.

Dated this 18<sup>th</sup> day of May, 2018.

BY THE COURT:

s/ Michael D. Nelson  
United States Magistrate Judge